

1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
RAFAEL SOTO,

Plaintiff,

Index No.
12 CV 4241
(MKB) (VVP)

-against-

THE CITY OF NEW YORK, COUNTY OF KINGS,
DISTRICT ATTORNEY CHARLES J. HYNES,
DETECTIVE DANIEL BONILLA, POLICE OFFICER
ADAM FEDER, ASSISTANT DISTRICT ATTORNEY
JOHN GIANNOTTI, ASSISTANT DISTRICT ATTORNEY
LINDSAY GERDES, LIEUTENANT CHRISTOPHER
MARROW, and DETECTIVE BRIAN MEICHESNER,
Defendants.

-----X

January 16, 2014
11:25 p.m.

EXAMINATION BEFORE TRIAL of ASSISTANT
DISTRICT ATTORNEY LINDSAY GERDES, one of the
Defendants here, taken by Plaintiff, held at
225 Broadway, New York, New York, pursuant
to Order, before a Notary Public of the
State of New York.

HARRIET BEIZER ASSOCIATES
'THE VERBATIM REPORTING SERVICE'
70-50 AUSTIN STREET
FOREST HILLS, NEW YORK 11375-4252
(718) 544-4199

1 L. GERDES, ESQ.

2 A No.

3 Q Have you ever been
4 arrested?

5 A No.

6 Q When was the first time
7 that you learned about the underlying
8 criminal matter with Masahira Yoshida,
9 which is the subject of the lawsuit that
10 we're here for today?

11 A The day of the crime, on
12 October 20, 2011.

13 Q How did you hear about it?

14 A I got a call from my boss.

15 Q Who is your boss?

16 A Jeff Levitt.

17 0 What was his position?

18 A He's the Executive of the
19 Blue Zone.

20 0 What did he tell you?

21 A He told me that there was
22 an arrest. This is in sum and substance
23 because we're talking about a
24 conversation that took place over two
25 years ago.

1 L. GERDES, ESQ.

2 Q Absolutely, yes.

3 A Basically, that there was
4 an arrest at the 76 Precinct. This is
5 based on what my recollection is. That
6 it was a serious case, because a man was
7 abducted, but found. That one of the
8 guys who committed the crime wanted to go
9 on video.

10 That there was a rider from
11 our office. There is a special unit
12 called the Investigations Bureau at my
13 office. When there is a defendant who
14 wants to make a videotaped statement,
15 there is somebody, basically, who goes to
16 the precinct to take the statement from
17 them.

18 He said that there is a
19 rider who is at the precinct, but you're
20 going to be assigned the case. You're
21 going to handle it from, you know, Grand
22 Jury to trial. So, you know, I think it
23 would be a good idea, if you can, to go
24 so that you can, you know, learn as much
25 about the case as quick as possible.

1 L. GERDES, ESQ.

2 Q By "rider," do you mean
3 someone who is coming along, or is that
4 some other term that you use?

5 A No. That's what our office
6 calls it. It's basically -- I don't know
7 how it started. I think it's like ride
8 along maybe with the police, but that
9 might be my own of what I have just
10 gleaned that term to mean.

11 That's their general role.

12 The Investigations Bureau also writes up
13 search warrants, when there needs to be a
14 search warrant, or if they need to get a
15 trap and trace, or a pen register. They
16 take care of things like that.

17 So he was going --
18 basically, the precinct calls our office
19 and says, we have a guy here who -- this
20 is generally how it works -- wants to go
21 on video. You know, can an ADA come down
22 and do the video?

1 L. GERDES, ESQ.

2 does these videos, and goes down. That
3 was John Giannotti in this case.

4 Q John Giannotti actually
5 worked with the special investigation
6 unit?

7 A I believe it's called the
8 Investigations Unit.

9 Q I apologize. The
10 Investigations Unit.

11 A That was really the first
12 time I ever had interactions with him in
13 my six years.

14 Q John Giannotti?

15 A Yes. In my four years, I
16 guess, at the time.

17 Q Do you know what his title
18 at the Kings County DA's Office is?

19 A Assistant District
20 Attorney. You're using different terms.
21 You said what his title is, but before
22 you asked me what my position was.

23 You know, everyone, setting
24 aside from the District Attorney, is an
25 Assistant District Attorney. There is a

1 L. GERDES, ESQ.

2 difference between -- like, Assistant
3 District Attorney is not my title, when
4 we were back in the beginning and you
5 asked me that. That's my position, but
6 that's not my title.

7 Q I see. What is your title?

8 A I'm Of Counsel to the Blue
9 Zone.

10 Q What is the distinction
11 between that and, say, another position?

12 A It's, basically, a
13 promotion. You start off as an Assistant
14 District Attorney. When you work your
15 way up through, you know, trials and
16 seniority in the office, you go to then
17 Senior Trial Attorney and then Of
18 Counsel. I don't know what John
19 Giannotti's title is. He's been in the
20 office longer than me, I believe, but I'm
21 not even 100 percent positive about that.

22 So, he was at the precinct.

23 So, I was actually at the school. It's a
24 Legal Lives Program that my office does.

25 Q Legal wise?

1 L. GERDES, ESQ.

2 A Legal Lives, L-I-V-E-S. I
3 was teaching fifth-graders about the
4 criminal justice system, and I got a call
5 from my boss explaining what I just laid
6 out to you.

7 Then I took, you know, the
8 car service that was bringing me from the
9 school back to the office, and we
10 diverted and went to the 76 Precinct. I
11 got dropped off at the 76 Precinct, and
12 John Giannotti was already there.

13 Q Had the interview started
14 by the time you had gotten there?

15 A No.

16 Q Were you there for the
17 entire interview?

18 A Of Pablo Dickinson?

19 Q Of Pablo Dickinson,
20 correct.

21 A Yes.

22 Q What, if anything, else,
23 other than the actual interview, did you
24 do while you were at the precinct?

25 A I spoke to some of the

1 L. GERDES, ESQ.

2 I'm answering these questions to the best
3 of my ability.

4 Q That is all I want. I'm
5 not trying to make you guess about
6 anything. Again, these questions are
7 about the Kings County District
8 Attorney's Office's practices and
9 procedures. Not necessarily what your
10 obligations are when you go to court on a
11 particular matter.

Again, do you know if there
is some sweep that they do of their hard
drives? For example, if you have an
indictment or a computer file that's been
on the computer for nine years, do they
delete it after that time? Those are
just examples. Do you know anything
about that at all?

20 A Not to my knowledge.

21 Q You indicated earlier that
22 when you got to the 76 Precinct that you
23 spoke with Detective Bonilla; is that
24 correct?

25 A Yes.

1 L. GERDES, ESQ.

2 Q What was the sum and
3 substance of your conversation with
4 Detective Bonilla?

5 A It's difficult for me to
6 say exactly what information came from
7 which officer, because it's like, you
8 know, Police Officer Feder was there,
9 Police Officer Erdochowski was there, the
10 victim was there.

11 So, at this point, you
12 know, two years later, as far as what
13 information came from which of those
14 respective sources, I don't -- you know,
15 it's difficult for me to say that.

16 Basically, I learned about
17 the overall case, the circumstances of
18 the victim's assault, abduction. You
19 know, they found him in the van, what was
20 in the van. I learned about the victim
21 and the bread route. You know, I learned
22 about his dealings with Rafael Soto, his
23 dealings with Mr. Route.

24 I learned about what Pablo
25 Dickinson was saying to Detective

1 L. GERDES, ESQ.

2 Bonilla. I learned about what kind of
3 evidence was recovered inside of the
4 victim's van; meaning, zip ties, the
5 guns, the extent that there was a lot of
6 blood there. I saw the victim's
7 injuries.

8 So, I got an overall
9 picture of, you know, what we were
10 dealing with. You know, over two years
11 later, as far as which tidbit of
12 information came from which of those
13 respected sources, it's difficult for me
14 to say that now.

15 Q Understandable. One of the
16 things that's, obviously, at issue here
17 is when you knew certain things.

18 A Right.

19 Q Bear with me, if I'm going
20 through things piecemeal; okay?

21 A Totally fine.

22 Q I know that you've given us
23 a general overview of the subject matters
24 that you learned about when you were at
25 the 76 Precinct that initial time.

1 L. GERDES, ESQ.

2 Can you go into more detail

3 about exactly what you were told?

4 Obviously, I know that you don't remember
5 who necessarily it came from.

6 A Right.

7 Q Are you able to go into
8 more detail?

9 A About what I learned?

10 Q Yes.

11 A Yes. I, basically, had
12 learned that the victim was coming home
13 from work that day. That he, basically,
14 was coming home at his normal time. That
15 he goes to, basically, some type of
16 depot, or whatever, just to make sure the
17 bread trucks get out on time and that
18 everything is stocked. When he's
19 finished with that, he comes home.

20 His wife was also there at
21 the precinct. I learned that his wife
22 was awake, you know, at this time,
23 because she was working on -- she's an
24 accountant and she was working on some
25 type of job.

1 L. GERDES, ESQ.

2 The victim explained what
3 had happened to him and what people said
4 to him. That these perpetrators, these
5 masked perpetrators, who were speaking
6 Spanish at different times and some
7 English, were demanding the \$100,000 from
8 his safe in his apartment.

9 He said that they ambushed
10 him after he got out of his car and was
11 heading towards his building. That he
12 was pistol-whipped. That they were
13 saying, you know, take us to your
14 apartment. Take us to your apartment.
15 They were demanding the \$100,000 from the
16 safe in his apartment.

17 He explained to me how he
18 was trying to stall, fumbling for his
19 keys. That he tried to misdirect them at
20 first, because he knew his wife was home.
21 That one of them knew his floor. It's
22 not like he could really distinguish as
23 to who was saying what, because they were
24 both masked. That one of the guys was
25 then saying, no. We know you live at

1 L. GERDES, ESQ.

2 2-G. That they knew his exact apartment
3 number.

4 He explained to me then
5 that once he knew that, he had to take
6 them to his correct floor. He was trying
7 to stall in the hallway, dropping his
8 keys. They were hitting him with the
9 guns. They hit him with a hammer. He
10 said he put the keys in his door, was
11 trying to make noise to alert his wife.

12 That finally he, basically,
13 said to them, look, I have money out in
14 my car. Take me out to my car. I have
15 some COD money, which was cash on
16 delivery money, out in my car. They took
17 him out to the car. When they got to the
18 car, they realized that there's no money
19 in the car.

20 Then, they throw him in the
21 back of his van. Now, we're talking
22 about the victim's white industrial type
23 of van. They zip-tie him. Then, they
24 beat him a little bit more in the back of
25 the van, he said. Then they drive off.

1 L. GERDES, ESQ.

2 It's like they're panicking, kind of.

3 They don't know what they're doing.

4 They're telling him they know he's got
5 money, \$100,000, in his safe.

6 He tries to tell them,
7 look, call my wife. Maybe she can get
8 you some money. That he had given them,
9 I believe, his phone, but he doesn't know
10 if the call ever went through to his
11 wife, because he wasn't on the other end.

12 He wasn't a party to that phone call.

13 Q Right.

14 A Then, he said they were
15 speaking Spanish between the two of them.
16 He's, like, facedown in the back hogtied
17 at his hands and feet. They pull over
18 and stop and that they're talking.

19 Basically, what he's
20 telling me is that he felt like they were
21 trying to figure out what they were going
22 to do. At one point they were telling
23 him that they were going to kill him and
24 throw him over the bridge. Then, all of
25 a sudden, this police car comes and saves

1 L. GERDES, ESQ.

2 him, basically.

3 He explained that he never
4 really got a good look -- the people had
5 masks on during the incident. When the
6 police take them out, they were facedown
7 on the ground. At one point, he could
8 barely see the side of somebody's face,
9 but not to, like, really make them out.
10 So, he didn't know who did this to him at
11 the time.

12 Then, when we got to the
13 precinct, he was trying to, like,
14 mentally process all of this and figure
15 out who did this to him and why this
16 happened. He was, basically, coming back
17 to this idea of the potential purchase of
18 Rafael Soto, because he told Rafael Soto
19 that he had \$100,000 in a safe.

He was telling me that he mentioned this to Soto, because he wanted to legitimize himself as a buyer. These are all-cash deals, always. So, he wanted him to know, look, I'm ready to move. I can do this. Take me seriously.

1 L. GERDES, ESQ.

2 He was explaining to me that he had
3 looked into buying his route in August, I
4 believe. The end of July or August, but,
5 basically, the summer of 2011.

6 He told me that he went out
7 on the route one day with his driver,
8 Jonathan. He said, you know, they drove
9 through the route. That they had lunch
10 together that day, he and Jonathan. He
11 told me he had never met Rafael himself.

12 As he's telling me the name
13 Jonathan, I'm realizing that I know one
14 of the perpetrators in custody has the
15 first name of Jonathan. This is a
16 pretty -- I don't know if you want to
17 call it a coincidence. This is very
18 interesting that he's saying this. He
19 says the guy is Dominican and this guy,
20 you know, appeared to be Dominican.

21 What he was telling me was
22 that as part of this potential deal, he
23 had given over his name, his address, and
24 said that he had the \$100,000 in the
25 safe, and that's what these people were

1 L. GERDES, ESQ.

2 coming and asking for. The one person
3 who knew that he had the \$100,000 in his
4 safe and who he was saying knew his
5 address was Rafael Soto, his personal
6 address, because at no time did he ever
7 take Jonathan to his house or give
8 Jonathan his home address.

9 So, as he's saying this,
10 Detective Bonilla has him look at
11 Jonathan in a cell and he says -- well,
12 they didn't tell him his name was
13 Jonathan. They have him look at Mena in
14 a cell and he says, yes, that's Jonathan.
15 That's the guy who I drove around with.
16 Yes, that's him.

17 Q Were you there for that?

18 A I was at the precinct.

19 Q When they showed Mr.
20 Yoshida Jonathan in the cell?

21 A I was physically at the
22 precinct.

23 Q Did you actually see that
24 happen though?

25 A I couldn't hear what the

1 L. GERDES, ESQ.

2 victim said to the cop, but then I spoke
3 to the victim after, and he told me that
4 that was Jonathan. I was on the same
5 floor and, like, I think I could maybe --
6 I think, if memory serves me correctly, I
7 could see the victim, but I wasn't within
8 earshot to hear.

9 Then, I spoke to the victim
10 after and he's, like, in shock, kind of.
11 Not in shock. You know, he's like yes,
12 that's him. So, as he's saying all of
13 this, Bonilla is filling me in on what
14 Pablo Dickinson had said, because they
15 had talked before I arrived.

16 Pablo Dickinson was saying,
17 basically, that he got a call the night
18 before from Jonathan asking him if he
19 wanted to do this job with him. That
20 this was going to be easy money. That
21 they were going to go rob this Asian guy.
22 That he was going to have \$100,000 in his
23 safe, and that they were each going to
24 get a cut.

25 I believe he thought he was

1 L. GERDES, ESQ.

2 going to get 20,000. Then, Dickinson had
3 told the detective, and told us on video,
4 that he and Mena, I believe, were going
5 to each get 20 or something. Basically,
6 that amount. I would have to look at the
7 transcript or the video. I believe you
8 have that, as far as the exact amount.
9 That the rest of the cut, the rest of the
10 \$100,000, was going to this third person.

11 So, from what Dickinson was
12 then telling us that day at the precinct,
13 there was a third person who was involved
14 in this criminal transaction, who, in my
15 mind, was the mastermind of this, because
16 this third person is getting
17 substantially more than the two of them.
18 Best case scenario, they're each getting
19 20, and then this third person is
20 getting, you know, the difference, the 60
21 grand.

22 So, from day one, the idea
23 that there was this third person involved
24 came to light. The reason why, you know,
25 the evidence was pointing towards it

1 L. GERDES, ESQ.

2 being Rafael Soto was because we knew
3 that the victim had told Rafael Soto, you
4 know, that he had \$100,000 in his safe,
5 and that the victim had given his name
6 and address in connection with this
7 purchase. So, the person who knew these
8 pieces of information was Rafael Soto.

9 We also then knew that the
10 van -- Pablo Dickinson had explained to
11 them that the van was still parked there.
12 That the police were able to locate the
13 van right away. That the van was
14 registered to Rafael Soto. So, the van
15 that they actually got at the scene of
16 this abduction is registered to the man
17 who has knowledge that the victim has
18 \$100,000 in his safe, and registered to
19 the same man who knew the victim's home
20 address.

21 So, I'm trying to give you,
22 kind of -- that's the large majority of
23 what we knew that day at that time at the
24 precinct. Information as far as --
25 there's a lot more information that I

1 L. GERDES, ESQ.

2 find out before Rafael Soto's arrest.

3 Q Sure. We'll go through
4 that piece by piece as the investigation
5 progressed.

6 A Sure.

7 Q At that particular time,
8 did you have any other information or
9 evidence that pointed towards Rafael
10 Soto?

11 A Let me think. I also knew
12 from the victim that -- I told you that,
13 you know, when he was really looking into
14 buying Soto's route, it was either in
15 late July or early August. Basically,
16 summer of 2011.

17 He also said that in
18 September, the broker reached out to him,
19 Mr. Route, to say, look, that route that
20 you had looked at is still available.

21 Are you interested? So, we knew that he
22 was still, basically, looking for someone
23 to unload his \$100,000 -- really \$135,000
24 route on in September. So, he was
25 needing money, in my estimation, as of,

1 L. GERDES, ESQ.

2 you know, a couple of weeks before this
3 happened.

4 I also knew that the person
5 who Mena recruited to do this job, who
6 was somebody who also knew Soto, was,
7 basically, quote unquote, "like a friend
8 of the family." These guys went way back
9 together. This wasn't, you know,
10 somebody who was just friends with Mena.
11 This was somebody who, in theory, could
12 be trusted within that inner circle.

13 According to what Dickinson
14 told us, I also knew that Mena had his
15 own car. In his videotaped statement, he
16 gave the type of car that Mena typically
17 drove. So, in theory, instead of driving
18 his own car, he was driving Soto's van.
19 I think that's, in the big picture, the
20 things that I knew that day.

21 Q Well, it's very important
22 for me to know specifically if that's the
23 totality of --

24 A Of that day?

25 Q Yes, because, again, what

1 L. GERDES, ESQ.

2 is at issue here is what you knew, when
3 you knew it, and whether or not you had
4 probable cause.

5 A To arrest, but he wasn't
6 arrested that day.

7 Q Correct. I still need to
8 know when you knew different things.

9 MR. FRANCOLLA: Is there a
10 question? I think what she is
11 saying is, that's what she
12 remembers.

13 A That's what I remember. As
14 I sit here today, that's what my memory
15 is. Am I saying that I 100 percent know
16 that there wasn't another piece of
17 information that I knew? As I sit here
18 today, over two years later, that's what
19 I remember learning that day.

20 MR. MOUTON: I'll leave a
21 blank in the transcript. If
22 you remember anything else,
23 you can fill that in; okay?

24 THE WITNESS: Okay.

25 MR. FRANCOLLA: So that

1 L. GERDES, ESQ.
2 we're clear for the record,
3 that's as to the facts that
4 she learned which presumably
5 would go to probable cause to
6 arrest Rafael Soto on October
7 20, 2011?

8 MR. MOUTON: Yes.

9 MR. FRANCOLLA: Okay.

10 INSERT: _____

11 A Oh, the license plate
12 thing. I also knew that they covered
13 license plates, which would have come
14 back to Rafael Soto with Minnesota
15 license plates.

16 Pablo Dickinson had told us
17 that they changed the license plates more
18 than once. He couldn't remember. He
19 knew they went over a bridge. He
20 couldn't remember which bridge it was,
21 because he was saying he's not that
22 familiar with Brooklyn, basically.

23 I knew that they were
24 covering up license plates which would
25 have identified that vehicle, not to

1 L. GERDES, ESQ.

2 them, to Rafael Soto. So, that was even
3 more evidence that pointed towards Rafael
4 Soto's potential involvement, because
5 they're trying to shield his
6 participation in this and his involvement
7 by doing him the solid, basically, of
8 covering up his license plate when they
9 crossed over the bridge.

10 It was also very important
11 information, because if he wasn't
12 involved, it wouldn't be as important for
13 them to cover up his license plate,
14 because, again, this car wasn't going to
15 come back to -- it wasn't registered to
16 either of them. So, that was very
17 important.

18 Q I just want to get a brief
19 list. Obviously, it's not going to be
20 the full explanation you've given, but I
21 just want to give you a brief list, and
22 you can tell me if my understanding is
23 complete as to the evidence that you
24 believed you had against Rafael Soto on
25 October 20, 2011, because I want to ask

1 L. GERDES, ESQ.

2 you questions about each specific one;
3 okay?

4 A Isn't that what the record
5 is for? I mean, because I don't want to
6 feel like you forget to tell me one of
7 the things I just said on the record.

8 Q If I forget to tell you,
9 that's my fault. I just want to have the
10 information about it so that I can ask
11 you about it.

12 A Okay.

13 Q Let me just take a minute
14 and write it up.

15 A Okay.

16 Q My understanding, just as a
17 brief synopsis, is that Soto had
18 Yoshida's address. Soto had knowledge of
19 the \$100,000 in Yoshida's safe. That
20 Yoshida had gone with Jonathan on the
21 route for one day. That he did not tell
22 Jonathan his address. He didn't tell him
23 about the money. That he did not take
24 Jonathan to his home address.

25 Dickinson said that there

1 L. GERDES, ESQ.
2 was a third person. The van was
3 registered to Soto. Soto was trying to
4 unload his route. Dickinson knew Soto.
5 Mena had his own car, but decided to use
6 Soto's van, and they had covered the
7 plates so as not to trace the car back to
8 Soto.

9 MR. FRANCOLLA: I'm going
10 to object to the extent that
11 this information has already
12 been provided.

13 You can answer.

14 A There's two things. I
15 never said that Yoshida never told Mena
16 about the money. .

17 Q Okay.

18 A Mr. Yoshida wasn't sure
19 whether or not he told Mena about that,
20 but I knew he didn't tell Mena about his
21 address. Yoshida was, basically, saying,
22 in so many words, there's only one person
23 who knew both of those things. In his
24 mind, that's what he's telling me.

25 He said that he filled out

1 L. GERDES, ESQ.
2 this Mr. Route paperwork. So he's
3 thinking that Soto, obviously, has this.
4 He also had spoken to Soto multiple times
5 on the telephone, and Soto was supposed
6 to come meet him at Mr. Route's once and
7 never showed.

8 The other thing that was,
9 kind of, important is that I was, kind
10 of, getting an impression that certain
11 things with Soto were, like, a little
12 fishy, because Mr. Yoshida was also
13 telling me that the route -- the reason
14 why the deal fell through was because
15 Soto couldn't get him the numbers that he
16 wanted to substantiate for the route.

17 So, really, the route
18 wasn't worth what Soto was saying that it
19 was worth, and what he was trying to sell
20 the route for, because he could never
21 back up the numbers. Like, he provided
22 him with certain numbers that he said the
23 route made. That Mr. Yoshida was asking
24 for the details, and he never got him
25 that.

1 L. GERDES, ESQ.

2 There was something else that made you
3 believe, as well, that pushed it even
4 further in your mind, that there is this
5 third person involved, and it's Soto, and
6 he's taking a larger piece of the pie,
7 and it's not just that Mena is saying
8 that, or that Jonathan told him that?

9 A Correct.

10 Q So, there was a text
11 message that --

12 A Just so -- because I want
13 to clarify even what my knowledge is as
14 of now. Pablo Dickinson then later did
15 tell us that Mena told him that Soto was
16 getting the rest, just so you know that.

17 Q When was it that he told
18 you that?

19 A When he met with our
20 office. He, basically, was the subject
21 of a threat in jail. I believe it was in
22 December of 2011, if memory serves me
23 correctly.

24 We met with him for the
25 first time, I think, after the initial

1 L. GERDES, ESQ.

2 precinct interview, in connection with a
3 threat. Then we met with him, like, once
4 after with his attorney, or maybe twice
5 after. He told us that Mena told him
6 that Soto was, you know, getting the
7 rest.

18 Q Sure. That interview that
19 you had in December of 2011 with
20 Dickinson, was that recorded?

21 A No.

22 Q Was it written down
23 anywhere?

24 A No. His attorney was
25 present though. His attorney was David

1 L. GERDES, ESQ.

2 A No. I actually think that
3 at some point I spoke to Jonathan Mena's
4 wife, and she told me -- because I was
5 telling her what Mena was saying. She
6 told me that they had cars.

7 Q Did she tell you how many
8 cars they had?

9 A NO.

10 Q Did she tell you what kind
11 of cars they had?

12 A I can't remember.

13 Q At this particular
14 juncture, did you look into any financial
15 background of Jonathan Mena?

16 MR. FRANCOLLA: What
17 particular juncture?

18 Q On October 20, 2011, did
19 you begin to inquire about his financial
20 stability or background?

21 A Well, he wasn't talking to
22 us. He just gave his pedigree
23 information to the police. So, we didn't
24 have, you know, his bank account
25 information. I didn't know what banks he

1 L. GERDES, ESQ.

2 banked with. I didn't know anything
3 about that, and he wasn't talking.

4 Q When did you speak to his
5 wife?

6 A I don't remember the exact
7 date. At some point.

8 Q Was it before or after
9 Rafael Soto was arrested?

10 A It was after.

11 Q Would it surprise you to
12 know that Jonathan Mena was actually in
13 the process of being evicted from his
14 apartment, owed money to several people,
15 and did not own a vehicle?

16 A Would it surprise me to
17 know that now?

18 Q Yes.

19 A I think he filled out a
20 rental application for a new apartment
21 and talked about his income. So, yes,
22 that would surprise me now.

23 I believe that his wife
24 told me that they did have a car. At
25 least a car. So, if you told me that

1 L. GERDES, ESQ.

2 A I recognize it.

3 Q What is that document?

4 A It's my understanding that
5 this is a document -- you know, this is
6 my understanding from how it was
7 vouchered and what I know about the case.
8 This is a document that was found in the
9 van registered to Soto, the FedEx van. I
10 saw this document shortly before Mena's
11 trial started.

12 Q It was in evidence, and it
13 was accessible to you; is that correct,
14 before Rafael Soto was arrested?

15 A Correct.

16 Q It's just that you did not
17 review it?

18 A Right. I didn't know it
19 existed.

20 Q It was accessible to you,
21 because you knew about the voucher
22 numbers, you knew about all the evidence
23 that had been vouchered, and you just had
24 not reviewed it; is that correct?

25 A I knew that there was

1 L. GERDES, ESQ.

2 miscellaneous papers recovered. I
3 believe that's how the police entitled
4 the voucher. I think it was maybe
5 something like 67 or X number of
6 miscellaneous pages.

7 This was another receipt,
8 this Home Depot receipt, that is marked
9 A11514. This was also recovered in the
10 car. You know, because, what I assume
11 we'll be talking about later pertaining
12 to the zip ties, this became relevant.

13 So, this one receipt or
14 document (indicating) from the car got
15 vouchered, and I saw a copy of this
16 before Soto's arrest. As far as these
17 papers (indicating), I did not see these.

18 Q Now, you indicated that you
19 believed that because Rafael Soto was
20 selling his route that he was hard up for
21 money; is that correct?

22 A That he was, yeah. That he
23 was looking -- hard up for money, yes.
24 That I thought he was looking for money
25 at that point.

1 L. GERDES, ESQ.

2 A Correct.

3 Q Do you know when they
4 brought that van into the 76 Precinct, if
5 at all?

6 A I think it was within about
7 a day. Within, like, the 24-hour period.
8 Whether it was later, I think it got
9 towed. It was soon. The search warrant
10 was executed on the van on October 24th
11 of 2011. When the search warrant was
12 executed, the van was at the precinct.

13 Q Now, I'm just going to go
14 back, because earlier you indicated that
15 on 10/20/11 is when you saw the various
16 documents from the vehicle. Would it be
17 safe to assume that --

18 A I didn't say that. What I
19 saw on 10/20 was the notes that the
20 victim had brought. I didn't see any
21 documents from Soto's vehicle, with the
22 exception of the Home Depot receipt until
23 just before the Mena trial.

24 Q I apologize. You're right.
25 Were you aware that there was other

1 L. GERDES, ESQ.

2 A No, that was the only time
3 in connection with this case that I was
4 at the precinct.

5 Q As the detectives would
6 find things or voucher things, would they
7 send you the voucher numbers, et cetera?

8 A I think they might have
9 given me a lot of the paperwork when they
10 came to Grand Jury.

11 Q Between the time of
12 10/20/11, when you were at the precinct,
13 and excluding the time when they gave you
14 the photos on 10/24/11, before Mr. Soto
15 was arrested, did you ask the police
16 officer if they came up with any more
17 documents or evidence regarding the
18 incident on 10/20/11?

19 A Of course, because, you
20 know, we got subpoenas for the phones, or
21 the police did. I don't remember who got
22 the subpoenas. So, I knew Detective
23 Bonilla was going to TARU to get the
24 phones downloaded.

25 So, before Mr. Soto's

1 L. GERDES, ESQ.

2 arrest, I saw text messages from the
3 phone. On 10/24/11, I also learned that
4 they found in the van the Home Depot
5 receipt, which was for the packaging or
6 the purchase, I should say, of two packs
7 of 24 zip ties.

8 When they told me about
9 that, then Bonilla told me that he would
10 go out to the Home Depot. I believe it
11 was in Linden, New Jersey, maybe. The
12 receipt told us which Home Depot location
13 it was. Yes, it was in Linden, New
14 Jersey.

15 He went to that store and
16 had one of the loss prevention officers
17 download video surveillance that
18 corresponded to the purchase of these zip
19 ties. Information on the receipt,
20 basically, identifies the register where
21 this transaction took place. There was a
22 self-checkout line.

23 So, they were able to hone
24 in right on this exact self-checkout line
25 at that time. The detective got the

1 L. GERDES, ESQ.

2 video and got stills printed from the
3 video, which captured Mena and Dickinson
4 buying the zip types.

5 The purchase of these zip
6 ties was made a mere 36 hours before the
7 victim is abducted. These were large zip
8 ties. They weren't just, you know, small
9 12-inch zip ties. They were industrial
10 grade zip ties that are the kind that you
11 would want to use to bind a person.

12 If you want to talk to me
13 about other uses for them, yes, I'm sure,
14 because Home Depot is probably not in the
15 business of selling zip ties to bind
16 human beings. So, yeah, there could be
17 other explanations for that.

18 When I saw that, what I was
19 seeing was evidence that somebody who I
20 knew was involved in this crime, Jonathan
21 Mena, was out purchasing zip ties 36
22 hours prior to Yoshida's abduction with
23 the man who had the van, the victim, you
24 know, used to get to the abduction with
25 that man's van. They purchased nothing

1 L. GERDES, ESQ.

2 else, other than these zip types.

3 I also noticed in the video
4 that Soto was the driver of the van that
5 day. It wasn't Mena who was driving the
6 van. Soto was the driver of the van.
7 These were the zip ties then that binds
8 the victim. So, this gave me very, very
9 probative, relevant and powerful evidence
10 connecting Soto to this case.

11 Q After 10/20/2011, what
12 other steps did you take to investigate
13 the incident on 10/20/2011?

14 A I was urging the detective
15 to get this video to me quick. To get
16 the results of this information quickly.
17 I mean, your client wasn't arrested.

18 Q I understand.

19 A You're asking me what other
20 steps. So, there was a period from
21 10/20/11 until 11/7/2011, where we were
22 seeing, you know, what direction the
23 evidence pointed us in.

24 Q Absolutely. I'm just
25 trying to figure out what steps you took

1 L. GERDES, ESQ.

2 along that route to get there. What
3 investigative steps --

4 A I reviewed the video
5 surveillance. I knew that this was
6 Jonathan Mena, because he was wearing the
7 same jacket that he was arrested in. I
8 also knew that this was clearly Rafaela
9 Soto, because he too was wearing the
10 same, like, jacket sweatshirt thing that
11 he wore to the police precinct on
12 10/21/11. So, I was able to compare
13 those two.

14 So, I have him with the
15 person who does the abduction in the car
16 that gets them to the scene of the
17 abduction. I also have the fact that,
18 you know, I know that the deal has fallen
19 through. That he is still looking for a
20 buyer and he doesn't have a deal. I
21 reviewed the subpoenas. You're asking me
22 a general question.

23 Q No, I'm not. It's not a
24 general question. I just need to know
25 the steps. I don't want to know what you

190

1 L. GERDES, ESQ.

2 knew.

3 A I'm listing those. I'm
4 reviewing this evidence.

5 Q Absolutely.

6 A That's a step. My review
7 is a big part of this.

8 Q I must have misunderstood
9 you then, because I heard you say, I knew
10 that he did X, Y, Z, because of something
11 else. I just want to know the steps you
12 took. That's it.

13 A I'm trying to tell you
14 that.

15 Q I apologize.

16 A No problem. So, I then saw
17 text messages between Mena and Soto that
18 were from Mena's telephone, and that
19 indicated to me about his wife and the
20 baby. It also indicated -- you know, I
21 reviewed the text message where Mena told
22 him -- when I say, "reviewed," I'm seeing
23 how these pieces of evidence fit together
24 with what we know.

Again, I know from what

1 L. GERDES, ESQ.

2 Mena -- excuse me. From what Dickinson
3 is telling us, there is a third person
4 involved. I know from the victim that
5 there is only one person who knew both
6 his address and the \$100,000 in the safe.
7 I know that the car used belongs to Soto.

8 Through my review of
9 everything, I know that Soto purchased
10 the zip ties. Soto is the one who was
11 ringing them up at the register, too. It
12 wasn't Mena ringing them up at the
13 register. Soto is the one who rang them
14 up and paid for them. Soto is the one
15 who then -- it's his van that they're
16 getting in.

17 I reviewed the text
18 messages where Mena is telling Soto, I
19 found a tiguere who can go over there
20 with me. I told him, you know, he's only
21 getting ten, because I'm getting twenty.

22 Q I apologize. Do you speak
23 Spanish?

24 A No.

25 Q Go ahead.

1 L. GERDES, ESQ.

2 A I took Spanish in high
3 school, but I'm not, like, fluent or
4 anything like that. Detective Bonilla
5 speaks a little bit of Spanish. Then, I
6 was also looking on, like, Urban
7 Dictionary on the computer.

8 There's, you know, what are
9 Puerto Rican slang words, or different
10 things like that. I was talking to other
11 people who speak Spanish who were
12 specifically Puerto Rican or Dominican,
13 and talking to people about what this
14 word means.

15 Basically, it means, like,
16 a -- it has a negative connotation. It
17 doesn't mean, like, I have a new employee
18 or a new businessman. In the context of
19 people who are Dominican and Puerto
20 Rican, it's, like, a downhome, dirty dude
21 who will go over there and, like, take
22 care of business.

23 Q We are going to go over
24 each of the text messages and talk about
25 what you gleaned from each one. So you

1 L. GERDES, ESQ.

2 done.

3 A I 'm done.

4 Q Can you tell me what that
5 document is?

6 A This is a Home Depot
7 receipt that was found. My understanding
8 from the police is that this was found in
9 Soto's van, along with a Home Depot bag.
10 Like, the store shopping bag. You know,
11 the little brown plastic bag. Also, with
12 this was the packaging for two packs of
13 24 zip ties.

14 On the video, I could see
15 that -- you can see what Soto has in his
16 hand. It's, essentially, you know, the
17 same length of the packaging and the zip
18 ties and the receipt confirms that those
19 are the 24-inch zip ties.

20 Q On this receipt, does it
21 indicate whether or not this purchase was
22 paid for in cash or with a credit card?

23 A It looks like cash.

24 Q Now, if you were looking at
25 this receipt in a vacuum, would you be

196

1 L. GERDES, ESQ.

2 able to tell from this receipt who
3 purchased the zip ties?

4 A Just this by itself, if I
5 look at this?

6 Q Yes.

7 A No. With the video
8 surveillance, I believe, it showed Soto
9 taking, actually, the money out of his
10 pocket and making the purchase.

11 Q My next question about this
12 receipt is: Can you tell from this
13 receipt what the brand name of the zip
14 ties are?

15 A At the time, I think, I
16 looked this up on the internet on Home
17 Depot. I had gone to their website and,
18 I think, that this stood for natural tie.

19 Q Did you ever go to Home
20 Depot to get a sample or to purchase the
21 zip ties that are reflected on this
22 receipt to compare them to the ones that
23 were recovered from the scene of the
24 incident?

25 A No, I did not.

197

1 L. GERDES, ESQ.

2 Q Did you direct anyone to do
3 that?

4 A No, I did not.

5 Q Do you know if any of the
6 detectives went to Home Depot to do that?

7 A Whether or not they took a
8 zip tie from the scene and asked Home
9 Depot if this zip tie was their zip tie?

10 Q Or compared it to the ones
11 that were on the shelf.

12 A Well, what I did was, I
13 looked at the video surveillance, which
14 shows the zip ties in Soto's hand, the
15 pack of zip ties.

16 So, you see the length.

17 You see what the packaging looks like.

18 It was clear packaging. You see that the
19 packaging was, basically, the same size.
20 When I say, "size," the length of the zip
21 tie.

22 Then I, myself, when I was
23 at the precinct, saw those zip ties. I
24 didn't see any serial numbers on the zip
25 ties or any stamps on the zip ties that

1 L. GERDES, ESQ.

2 said Home Depot, but I was able to do,
3 myself, a visual comparison of what Soto
4 had in his hands at the register.

5 Knowing that it was two
6 bags, also. Knowing then that two bags
7 were found in the van, two empty bags,
8 with the receipt, with the Home Depot
9 bag. You see them walking out with the
10 Home Depot bag.

11 So, you know, it's not like
12 they just walked out, oh, we don't need a
13 bag for these. They put them in a Home
14 Depot shopping bag and walked out. They
15 take the receipt, put the receipt in the
16 bag and walk out with those items. So, I
17 did a visual comparison of what I saw
18 Soto purchase versus the zip ties that
19 the police recovered.

20 Q So, the answer would be
21 that you don't know if the detectives
22 went to Home Depot to compare the zip
23 ties that were recovered to the ones that
24 Home Depot actually sells?

25 A Correct.

1 L. GERDES, ESQ.

2 people are?

3 A Not in that photograph.

4 That's not them though, because this
5 (indicating) is the FedEx van, and
6 they're in this van (indicating.)

7 Q Showing you what has been
8 marked as Defendant's Exhibit M, do you
9 recognize this document?

10 A I do.

11 Q Is this also a still from
12 the video?

13 A Correct.

14 Q In this particular
15 photograph, can you tell who the people
16 are that are depicted there?

17 A I can tell about the
18 jacket. That this is the exact same
19 jacket that Mena was arrested in. It's a
20 distinct jacket. You can see the black
21 in the hood. This isn't the best
22 picture. This other one --

23 Q We'll talk about that one
24 in just a minute.

25 A Okay.

1 L. GERDES, ESQ.

2 Q My question is: Do you
3 recognize the two people in that
4 photograph?

5 A Yeah. This (indicating) is
6 Mena and this (indicating) is Soto.

7 Q Before Mr. Soto's arrest,
8 had you ever met Mr. Mena or Mr. Soto?

9 A No.

10 Q Are there any facial
11 features that you recognize in Exhibit M?

12 A Are you just asking me,
13 just looking at this photo by itself, and
14 not knowing anything about the case that
15 I know, and not knowing that I have seen
16 all of the video surveillance in its
17 entirety, and that I've seen other
18 pictures than just this?

24 Q That's what my question
25 was.

1 L. GERDES, ESQ.

2 A Right, but there was lots
3 of still images from the video. I
4 watched the video countless times. I
5 paused it. You know, I could zoom, you
6 know, if I copied the image.

7 There's better video that
8 shows even the jacket that Soto is
9 wearing and his hairline. When you
10 compare, like, his jacket, his hairline,
11 and his size in relation to Mena's size,
12 and that they're getting into the FedEx
13 van, it's very clear that this is them.

19 Q You said that you saw a
20 copy of the Grand Jury minutes?

21 A Correct. So, he knew right
22 away that that was him. He knew right
23 away that -- he had no trouble
24 identifying himself in the picture along
25 with Mr. Mena.

1 L. GERDES, ESQ.

2 different angles.

3 Q We'll watch the video in a
4 little while.

5 A Then it was the FedEx van.
6 This was, like, a leather jacket, a black
7 leather jacket, with the black hood that,
8 kind of, hung out, which was the exact
9 same thing that he was wearing when he
10 came to the precinct on 10/21 and was
11 photographed.

12 Q I'm looking at these photos
13 myself and they look to be a bit fuzzy.
14 You're saying that this is a black
15 leather jacket. So, my question is: How
16 can you tell it's a black leather jacket,
17 other than it has --

18 A There was other pictures
19 where you could see that it was what I
20 thought was leather.

21 Q Again, that would be shown
22 in the video?

23 A I don't know if it was in
24 the video or still.

25 Q As to Exhibit N, can you

1 L. GERDES, ESQ.

2 transcript. I only got to watch part of
3 the video, but I didn't get to re-watch
4 the part where he talks about Soto. I
5 just got interrupted. I had a pretty
6 crazy last few days of work.

7 Q When you learned that they
8 covered the plates with another plate,
9 and you believe that was because they
10 didn't want it to be traced back to Soto,
11 did you instead think that maybe they did
12 that so that no one would find out who
13 they were instead of who Soto was?

14 A Yes. But, at the same
15 time, it's not like -- when you think of
16 possibilities, you have to think about
17 why something may be more likely than
18 another. Why is one explanation more
19 likely than an alternative explanation?

20 Q We have the video and the
21 text messages. If I'm not mistaken, I
22 believe that those were the only other
23 things that you reviewed prior to his
24 arrest; is that correct, that we haven't
25 gone over yet, or am I wrong?

220

1 L. GERDES, ESQ.

2 A No. I think you're right.

3 Q Let's go over those. Then
4 we can talk about why you drew certain
5 conclusions.

6 A Okay.

7 Q When did you first come
8 into receipt of text messages between
9 Rafael Soto and Jonathan Mena?

10 A At some point prior to his
11 arrest.

12 Q I am going to show you
13 documents that were marked yesterday at
14 the plaintiff's deposition. They're
15 dated 1/15/2014. They're marked O, P, Q,
16 R, S, T, U, and P-1.

17 MR. MOUTON: Why was this
18 marked P-1?

19 MR. FRANCOLLA: I don't
20 know why she did it that way,
21 but I think she marked it and
22 then marked it afterwards.

23 Q I'm going to ask you to
24 look at these exhibits collectively, and
25 let me know when you're done.

1 L. GERDES, ESQ.

2 A Okay. I can tell that
3 these are all text messages from Mena's
4 telephone.

5 Q Now, from these text
6 messages, can you tell me which text
7 messages from those exhibits that you
8 relied on in coming to any other
9 conclusions that you told me; that Rafael
10 Soto needed money, that he had children
11 on the way, that he had engaged someone
12 to rob Mr. Yoshida for \$10,000 or
13 \$20,000?

14 MR. FRANCOLLA: Just for
15 the record, the binding that
16 you just took off of P-1,
17 those are not individually
18 Bates stamped. To the extent
19 that any of those are things
20 that you want to take out, we
21 should probably mark that, as
22 well, so we know.

23 MR. MOUTON: Sure.

24 MR. FRANCOLLA: That's
25 just for the record.

1 L. GERDES, ESQ.

2 MR. MOUTON: Do you want
3 to do what we just did before
4 with the Bates numbers?

5 MR. FRANCOLLA: They're
6 not Bates stamped, because you
7 just got them yesterday.

8 MR. MOUTON: That's right.

9 MR. FRANCOLLA: That's the
10 only reason I'm saying that.
11 If there is anything in that
12 pile, let's just make sure
13 that we know --

14 THE WITNESS: I'm missing
15 a date and a time. We would
16 know which one, because we put
17 the same date in the contents.

18 A So, the way that I came to
19 learn about any text messages was that
20 one of the detectives took the phone to
21 TARU, and TARU then downloaded the
22 contents. They call it, like, a phone
23 dump. They put the contents of the phone
24 onto a CD. Then, also, they generated a
25 report.

1 L. GERDES, ESQ.

2 In the report, it lists the
3 way that somebody has their contact
4 information stored. Like, in this case,
5 "Be Bless" corresponded to the phone
6 number that everyone was saying belonged
7 to Rafaela Soto.

8 Now, Detective Bonilla
9 brought -- TARU gave a CD and a report
10 to, I believe, Detective Bonilla. I
11 don't know if there was maybe another
12 detective who he assigned that task to.
13 TARU generates a CD and report.

I then am given a copy of
the report and a copy of the CD. On the
CD, I reviewed text messages prior to
Soto's arrest that corresponded to his
contact with Mena, I think, from, like,
the 18th and the 19th, or maybe the 17th,
18th, or 19th. Really, like, a couple of
days leading up to the arrest.

22 I think I started closest
23 in time to the incident. Then, I saw a
24 text -- before I looked at things,
25 Bonilla, I believe, or an officer led me

1 L. GERDES, ESQ.

2 to believe, that there is a text message
3 where they're possibly discussing the
4 payments and who is getting what amount
5 of money. So, it's not as if I looked at
6 the CD blind, not knowing if there is
7 anything relevant on it.

8 Q Do you recall who that was
9 who told you that?

10 A I think it was Bonilla. I
11 think.

12 Q Why don't we just go
13 through each one, and you can tell me
14 what they meant when you read them, or
15 what you thought they meant when you read
16 them. So, we're looking at which one?

17 A I'll put them in order.

21 A There were two key text
22 messages, after I looked at this, that
23 really stood out to me. The first being
24 Defendant's Exhibit Q. The second being
25 Defendant's Exhibit T.

1 L. GERDES, ESQ.

2 Q Are there any other text
3 messages that you have that you believed
4 were important? The only reason why I'm
5 asking you is, I'm asking you that so
6 that we can narrow what we talk about
7 down.

8 A I also saw this text
9 message, Defendant's Exhibit U, about his
10 wife in surgery. I thought that there
11 was a text message that he was, like,
12 waiting at the hospital or something.
13 Waiting for the doctor since 5:00 a.m.

14 This is in this other
15 stack. This is Defendant's Exhibit P-1.
16 This is dated October 18, 9:43 a.m. It's
17 from "Be Bless" to "Me," which is Mena.
18 It says, "I'm at the hospital with my
19 wife. She's having contractions. The
20 doctor's on her way, since 5:00 a.m."

21 So, this is telling me that
22 his wife is in a health predicament.
23 Like, they're having a baby. You know,
24 that he's with her at the hospital.

Q I'm sorry. You classify

1 L. GERDES, ESQ.

2 having a baby as a health predicament?

3 A Well, because I think I saw
4 the other one about his wife recovering
5 from surgery. So, this led me to believe
6 that it wasn't so routine.

7 Q Would you consider a
8 C-section surgery?

9 A Of course. Let's start
10 over. I believe that his wife gave birth
11 to a child at some point between October
12 18th, at 9:43 and October 19th, at 9:17
13 p.m. That it was not necessarily a
14 routine labor.

15 I'm not married. I don't
16 have a child. So, that his wife is going
17 to be out of commission for a few weeks,
18 and that he's at the hospital.

19 Q Well, let me ask you
20 this --

21 A You're not letting me
22 finish.

23 Q Okay.

24 A Let me continue to finish.
25 So, I'm seeing this. An explanation is

1 L. GERDES, ESQ.

2 that he is unavailable to do this
3 robbery, because he's sitting bedside
4 with his wife. That's maybe why he
5 didn't go do this with Jonathan Mena.
6 That's one plausible explanation.

7 I'm sure you can give me an
8 alternative. Yes, there's different ways
9 to interpret this. As I'm seeing this,
10 he would be -- given that his wife had a
11 baby at some point in this 24-hour
12 period, she would not have been
13 discharged from the hospital.

14 That there was a surgery.

15 She would not have been discharged to go
16 home as of the time of this crime. So,
17 I'm thinking he's unavailable to go
18 commit this crime. He's bedside with his
19 wife.

20 I'm next seeing a text
21 message, Defendant's Exhibit P, where
22 Soto asks Mena, "Are you trying to
23 deliver bread?" Then Mena writes back, a
24 minute later, Defendant's Exhibit Q, "No,
25 bro. I'm at home. I'm just waiting on

1 L. GERDES, ESQ.

2 you for the other thing. All the bread
3 shit we can cover tomorrow." So, the way
4 I'm interpreting this is that Mena is
5 waiting on Soto for something unrelated
6 to the bread route, the bread business at
7 that time.

8 Then at 8:44, Defendant's
9 Exhibit T, Mena is telling Soto this
10 message that is written in Spanish, "I
11 got a dude." Again, I spoke about what I
12 learned to be the Dominican or Puerto
13 Rican connotation for this word
14 "tiguere," T-I-G-U-E-R-E. "I got a dude
15 who can go over there with me."

16 Over there, somewhere other
17 than New Jersey. Not you can do this
18 something here with me. Who can go over
19 there with me. So, he's telling Soto
20 he's going somewhere with somebody else
21 that's not in New Jersey. "I told him
22 he's only going to get ten, because I am
23 only getting twenty."

24 I had known what Pablo
25 Dickinson said. That, you know, he

1 L. GERDES, ESQ.

2 believed he was getting twenty, basically
3 dealing with the same amounts and the
4 same division. Then, you have Soto's
5 response back, talking about, "I think
6 \$10 an hour is fair. Please let him know
7 that it's only for a couple of weeks
8 until my wife recovers from surgery."

9 You already had Mena
10 telling him that he was waiting on him
11 for the thing, unrelated to the bread
12 route. So, they're engaged in a
13 conversation that isn't pertaining to the
14 bread route, and this text message is
15 coming eight to nine hours before this
16 victim is abducted.

17 So, when I know the
18 connotation for what "tiguere" is, when I
19 know that this is a job that Mena feels
20 is so important to update Soto that he's
21 got this dude who can do the job with
22 him, that's the -- you know, knowing what
23 I know about the zip ties, knowing what I
24 know about him still looking for a buyer
25 for the route, knowing that he's

1 L. GERDES, ESQ.

2 unavailable to commit this crime with
3 Mena, because he's helping his wife at
4 the hospital, knowing that he's the only
5 one who knows those two key pieces of
6 information -- the victim's address and
7 the \$100,000 in the safe. He's the only
8 one who knows both of those.

9 Remember, the victim never
10 told Mr. Route that -- although these
11 transactions are in cash, he never told
12 Mr. Route that the money was in a safe,
13 and that's what these people were
14 demanding.

15 Q Let's just do this one at a
16 time.

17 A Sure. Remember, I told you
18 that I reviewed text messages for the two
19 days. When Mena is talking to Soto and
20 referring to, say, \$20, this text message
21 clearly shows how he wants to refer to
22 \$20.

23 This is a text message from
24 October 18, 9:49 a.m., where when Mena
25 wants to say \$20, U.S. currency, he puts

1 L. GERDES, ESQ.

2 the dollar symbol and writes "20." He
3 has no problem expressing \$20.

4 Q You're assuming that was
5 his practice from that one text message?

6 A Well, these were -- when we
7 say, "one text message," these were two
8 text messages sent within a 24-hour
9 period.

10 Q Right. So, obviously, it
11 wasn't his pattern and practice, as you
12 just testified, to do that, because
13 he, in fact, did it a different way, in
14 possibly another text message; is that
15 correct?

16 A But in this one he's
17 saying -- they're talking about no gas in
18 the van. This is a very different tenor
19 to this text message.

20 Q Let's just go through each
21 of these text messages one by one.

22 A Okay.

23 Q Defendant's Exhibit O, can
24 you tell me what that says in English?

25 A You want me to translate

1 L. GERDES, ESQ.

2 it, you're saying?

3 Q Yes.

4 A I can't right now. I had
5 the translations done.

6 Q It's in Spanish?

7 A Yes.

8 Q Can you flip over to the
9 next one?

10 A Okay.

11 Q That's Exhibit P?

12 A Correct.

13 Q That's from "Be Bless" to
14 Mena?

15 A Correct.

16 Q It says, "You're trying to
17 deliver bread"?

18 A Correct.

19 Q Let's go to the next one.

20 We already covered that one.

21 A I remember "tato" means
22 okay.

23 Q Can you tell me what
24 Defendant's Exhibit S says?

25 A This was something to the

1 L. GERDES, ESQ.

2 effect that I talked to Lo's and he said
3 something. I forget if this means after
4 or before five, but I definitely knew
5 what this meant. Well, as far as the
6 translation.

7 Q Did you ever find out who
8 Lo's was?

9 A Well, I know what Mena said
10 at trial as to who Lo's was.

11 Q Who?

12 A He said that he was a
13 person who was going to be working the
14 route, essentially. Like, taking his
15 place.

16 Q Taking whose place?

17 A Taking Mena's place.

18 Q Did you ever learn before
19 Mena was arrested that the Lo's meant
20 Carlos?

21 A No.

22 Q Did you inquire into who
23 Lo's was?

24 A I believe I knew. I saw
25 that there was a Carlos whose phone

1 L. GERDES, ESQ.

2 number -- at some point, I don't know
3 when, I saw that there was a Carlos
4 stored -- maybe stored in one of the
5 phones on the report or something.

6 Q That was before --

7 A But I didn't know that this
8 meant Carlos when I looked at this. I
9 didn't know that this meant Carlos until
10 Mena testified.

11 Q But you knew that they were
12 referring to --

13 A It says, "Lo's." No, I
14 didn't really know that this was
15 referring to, like, a named man. It
16 says, "Lo's." I didn't really know what
17 that meant.

18 Q Let's go to the next one.
19 I think you testified about Defendant's
20 Exhibit T; correct?

21 A Yes.

22 Q That you took from that
23 that someone was going to get ten for
24 something that was unrelated to the bread
25 route, and Mena would get twenty?

1 L. GERDES, ESQ.

2 A Correct.

3 Q Is it indicated in that
4 text message that it was \$10,000, or
5 \$20,000, \$10, \$20?

6 A No.

7 Q Let's go to the next one.

8 In that text message, Defendant's Exhibit
9 U, can you tell me who that's to and who
10 that's from?

11 A From Soto to Mena.

12 Q Is that text message in
13 response to Defendant's Exhibit T? Is
14 that the next text message that was sent
15 to Mena from Rafael Soto?

16 MR. FRANCOLLA: Objection.

17 If you know.

18 A I don't know.

19 Q Does it appear that way?

20 A I can tell you that this
21 (indicating) was sent at 8:44, and then
22 this (indicating) was sent at 9:17. As I
23 sit here today, do I know if any other
24 text messages were sent in between? No,
25 I don't know.

1 L. GERDES, ESQ.

2 Q Fair enough. The police
3 did a phone dump; is that correct?

4 A Correct.

5 Q That phone dump has all the
6 text messages that were recovered from
7 the cell phone; is that correct?

8 A That's not correct.

9 Q It does not?

10 A Correct.

11 Q Does it have all the text
12 messages between Mena and Rafael Soto?

13 A I don't know the answer to
14 that.

15 Q Does it have all the text
16 messages between --

17 A Here's what happened. When
18 I was preparing for trial against Mena, I
19 had all of their phone records then at
20 that point. As I was looking at their
21 phone records, I could see that there
22 were text messages on the phone records
23 that I did not have copies of from that
24 disk.

25 I called TARU and I said to

1 L. GERDES, ESQ.

2 TARU, like, look, when you guys generally
3 do these phone dumps, do you put all of
4 the texts on the disk? They're like
5 yeah, that's the general practice.

6 So, then I realized that
7 definitely wasn't what happened here,
8 because the likelihood of all the texts
9 on Mena's phone being between him and
10 Soto and no one else was slim to none.

11 Q Sure.

12 A So, I realized then that
13 this is all that I had. Then, I also
14 realized that when I looked at the phone
15 records there were definitely, you know,
16 texts where it was saying that Mena was
17 either receiving or sending a text, and I
18 didn't have one that corresponded to that
19 date and time.

20 So, then I got a second
21 search warrant. This is while we're in a
22 trial part. I think even practically
23 while the trial was going on, we might
24 have been mid-trial when I realized this.
25 So, then I had permission to go back into

1 L. GERDES, ESQ.

2 the phone.

3 When I went back into the
4 phone, I could clearly see then that
5 there were text messages between Mena and
6 other parties. What I can't remember is
7 if there were any more between Mena and
8 Soto, other than what I have. I honestly
9 can't remember that.

10 Q At the time of Soto's
11 arrest, what we have here today with
12 Exhibits P-1, O, Q, R, S, T, and U, those
13 are the ones that you had that were
14 available to you?

15 A Well, I don't know how you
16 generated this.

17 THE WITNESS: Is this the
18 disk that I gave you printed
19 out?

20 MR. FRANCOLLA: Yes, I
21 could say that on the record.

22 Exhibit P-1, as well as
23 Exhibits O through U, are
24 copies of the text messages
25 that were on the disk Miss

1 L. GERDES, ESQ.

9 A Then, that's what I had pre
10 Soto's arrest.

11 Q My question then is: If
12 you look at all of these documents that
13 you have in front of you, can you tell me
14 if there appears to be other text
15 messages that would fall between
16 Defendant's Exhibit T and U?

17 A These aren't even in order.

18 Q They're not?

19 A No. We go from August 30th
20 to the 23rd, to September 15th, back to
21 September 2nd. Yes, it appears that
22 there are no text messages sent between
23 the two, you know, in between this time
24 period, between Defendant's Exhibits T
25 and U.

1 L. GERDES, ESQ.

2 Q Is it safe to say then that
3 before Soto's arrest, when you read these
4 text messages, that you believed or it
5 appeared to be that Rafael Soto's
6 response, that's depicted in Defendant's
7 Exhibit U, was a response to Mena's text
8 message that is depicted in Defendant's
9 Exhibit T?

10 A It was the next text that
11 was sent. I don't feel as though it's
12 responsive to what Mena sent though.

13 Q Now, in that text message,
14 we've already covered that Mena mentions
15 ten, that he's going to pay some ten; is
16 that correct?

17 A That Mena is?

18 Q Or someone agreed to be
19 paid ten; is that correct?

20 A Correct. That they're
21 going to be doing the same thing
22 together. Some job where they're going
23 to be working in tandem. That it's going
24 to be twenty. One's getting paid twenty.
25 That being Mena. The other one is

1 L. GERDES, ESQ.

2 getting paid ten. That's the person who
3 he, essentially, brought on who has
4 agreed to do this with him.

5 Not that this is what he
6 used to make. It means what I'm getting
7 for a future job. That some job that is
8 happening in the future, that is
9 happening over there. That this isn't a
10 continual job. This is a one-time thing,
11 because I'm only getting this. Again,
12 the context of what that word "tiguere"
13 means.

14 Q What led you in that text
15 message to believe that that was a
16 one-time job?

17 A Because I knew what had
18 happened to the victim. I knew that Mena
19 was a regular employee of Soto. That
20 Mena was his driver. That Mena was
21 Soto's driver who did the route. That
22 this is a payment that he's going to be
23 getting in the future for something he
24 does over there. That was the conclusion
25 that I drew.

1 L. GERDES, ESQ.

2 Q My question is a little bit
3 different from your answer.

4 A Sure.

5 Q My question is not what
6 influenced your decision to construe the
7 text message the way that you construed
8 it, but rather what in that text message
9 made you believe that it was only for a
10 one-time job?

11 A Because I'm knowing what I
12 know about what Pablo Dickinson said.
13 That he's getting \$20,000.

14 Q So is your answer that --

15 A That Mena is getting some
16 portion, also. So, I'm knowing what
17 Pablo has told me, and that somebody else
18 is getting the rest. So, the fact that
19 it's important for Mena to tell Soto that
20 he's -- it's like the three of them are
21 talking about this.

1 L. GERDES, ESQ.

2 They know Pablo Dickinson. They know
3 he's a drug dealer. A bad guy.

4 So, the person who I know
5 he recruited, because Pablo had told us,
6 you know, that Mena had called him
7 earlier in the night, and that he agreed
8 to do it. Then that Mena was going to
9 call him to pick him up. So, the time
10 that he was doing this was, like,
11 basically, falling in line, because we
12 spoke to Pablo first.

13 It was falling in line with
14 exactly what Pablo had told us. That he
15 had been recruited by Mena to go over
16 there, to go to Brooklyn. That he's a
17 downhome, dirty criminal. That's the
18 only reason they asked him, out of all
19 the friends and acquaintances they had.
20 That's why he was recruited.

21 That he was going to be
22 getting 20,000. You know, it's the same
23 division of money. That there was this
24 third person who was going to be getting
25 the rest. So, when I see this, when I

1 L. GERDES, ESQ.

2 know that Mena has just recruited an
3 accomplice, it's, essentially, him
4 telling Soto, look, I just got my
5 accomplice. We're set.

6 He's saying, you're with
7 your pregnant wife at the hospital. You
8 can't do this. I got somebody. I got a
9 downhome dude who will go over there and
10 commit this crime with me. I told him
11 about the payments. He's on board. That
12 you're going to still get your money,
13 basically.

14 Q When Soto says, "I think
15 \$10 an hour is fair," that didn't
16 register in your mind that that meant \$10
17 an hour and not \$10,000?

18 A There never needed to be --
19 Jonathan was the driver. It's not like
20 Soto worked for the route. As you have
21 said, you know, Soto wasn't hands on
22 every day taking a payment. Jonathan was
23 his worker. Jonathan was his driver.

24 So, the fact that Soto was
25 out of commission, it didn't affect

1 L. GERDES, ESQ.

2 Jonathan from being able to do the route.
3 It's not like Jonathan's wife was the one
4 who had the baby so that he's hiring
5 someone to fill his place. Because this
6 is only temporary, that person is going
7 to get less than what he got. You know,
8 the fact that Soto -- yeah, this is
9 totally nonresponsive and smart.

10 That's why I thought, like,
11 Soto was, you know, very smart in how
12 this crime was committed. The license
13 plate thing not coming back to him. You
14 know, him not ultimately being the one
15 who went over to do this. You know, him
16 wanting to get his van back from the
17 precinct as quickly as possible so the
18 police might not be able to find those
19 Home Depot receipts.

20 Q Now, let me ask you this:
21 If Jonathan Mena had been planning to
22 move to Virginia and meet with someone to
23 take over for him before Soto was able to
24 take over the route, would that have been
25 a reasonable explanation for that?

1 L. GERDES, ESQ.

2 A No, because then that would
3 have been a permanent job. That wouldn't
4 have been only for a couple of weeks.

5 Q Why wouldn't it have --

6 A Because the route. Who is
7 going to continue to drive the route?

8 Q What if I told you that
9 Rafael Soto had intentions of taking over
10 the route himself because he had found
11 out that Mena had been stealing money
12 from his business?

13 MR. FRANCOLLA: Objection.

14 Is there a question?

15 MR. MOUTON: Yes.

16 MR. FRANCOLLA: That
17 wasn't a question.

18 A I mean, I know what Soto
19 said in the Grand Jury. It sounds like
20 you maybe know bits and pieces of what he
21 said. There was no evidence before me
22 that suggested Mena was moving to
23 Virginia.

24 Q Well, the reason why I'm
25 asking you is because you're saying that

1 L. GERDES, ESQ.

2 he said, I think \$10 an hour is fair, and
3 you thought that was a smart and slick
4 thing that he did.

5 My question to you is: Did
6 it ever occur to you that maybe you were
7 attributing the wrong definition or
8 translation to what Mena sent to Rafael
9 Soto, and that it could possibly be, in
10 fact, that he was saying \$10 an hour?

11 MR. FRANCOLLA: Objection.

12 A So, what you're trying to
13 suggest is that Rafael Soto planned to
14 become the driver of this route?

15 Q I'm asking you: If I told
16 you those things; that Mena had plans to
17 move to Virginia, that Rafael Soto knew
18 that he was stealing from his route, and
19 that he had planned to fire him anyway,
20 and that he wanted to bring someone else
21 on to learn the route, because he didn't
22 know it, temporarily, while his wife was
23 out of commission, and that he agreed to
24 pay the gentleman who was taking over,
25 Carlos, who was mentioned in the previous

1 L. GERDES, ESQ.

2 text, \$10 an hour, would that be a
3 reasonable explanation as to this series
4 of text messages?

5 MR. FRANCOLLA: Objection.

6 A No, because your client
7 also said that the route was sold. So,
8 if the route is sold, what do they care
9 about bringing on a new driver?

10 Q If the route hadn't been
11 sold, would it have been reasonable?

12 MR. FRANCOLLA: Objection.

13 A No, again, it wouldn't,
14 because then if he's firing Mena because
15 he's a thief, and moving to Virginia,
16 Carlos, this new, you know, hypothetical
17 employee, would then become a full-time
18 worker. He wouldn't only be working for
19 a couple of weeks.

20 Q If Rafael Soto himself was
21 going to then take over the route, would
22 he not be working only for a few weeks?

23 MR. FRANCOLLA: Objection.

24 A The same Rafael Soto that
25 you said was working a full-time job at

1 L. GERDES, ESQ.

2 FedEx, and also the same Rafael Soto who
3 you said didn't know anything about the
4 route?

5 Q Certainly.

6 A No, it wouldn't make any
7 sense.

8 Q Let me put it this way.

9 Yesterday, Mr. Soto testified that he
10 was, in fact, leaving FedEx because he
11 needed to take care of these routes so
12 that he could then purchase a FedEx
13 route, and that he had plans to do that,
14 and, again, that he had found out that
15 Mena had been stealing from him.

16 So, he wanted to take over
17 these routes and learn them so that he
18 could know who the customers were, find
19 out who they were and how much he was
20 bringing in. That way he could sell the
21 route, but that at this particular
22 juncture his wife was pregnant and was
23 about to have a baby. So he needed a
24 temporary worker.

25 A That's why it doesn't make

1 L. GERDES, ESQ.

2 any sense, because when your client
3 testified before the Grand Jury, he said
4 that his route was sold. If his route is
5 sold, there is no need for him to worry
6 about his thieving employee hiring a new
7 employee. That becomes the new buyer's
8 problem. No, that doesn't make sense.

9 Q That was something that you
10 learned at the Grand Jury?

11 MR. FRANCOLLA: What was
12 something that she learned?

13 Q That was something that was
14 said at the Grand Jury, and that's when
15 you first learned that?

16 A He said that there was a
17 buyer in place.

18 Q "A buyer in place"?

19 A Right. What I knew at this
20 stage, when I was reviewing these texts,
21 was that Soto did not participate in the
22 daily operations of the route. So, the
23 fact that Soto's wife was going to be out
24 of commission, as she recovered from
25 surgery, that would not have impacted the

1 L. GERDES, ESQ.

2 daily operations of the route, because
3 Soto was not involved in the daily
4 operations of the route.

5 Q But Mena moving would have;
6 is that correct?

7 A No.

8 Q It wouldn't have impacted
9 the daily operations of the route?

10 A Clearly, Soto was a
11 hands-off owner, because he couldn't even
12 bother to get this information to the
13 prospective buyer.

14 Q My question isn't about
15 those particular documents or what
16 information he provided.

17 My question is: If Mena is
18 the only employee and he knows everything
19 about the route, and he's the one who
20 runs the route, if he moved, that would
21 not impact the operation of the bread
22 route?

23 A If Mena moved, that would
24 impact the operation of the bread route,
25 but there was no evidence before me that

1 L. GERDES, ESQ.

2 Mena had any intention on moving, nor did
3 your client at any time when he -- to my
4 knowledge, when he spoke to Detective
5 Bonilla, you know, in the days leading up
6 to his arrest, did he ever tell Detective
7 Bonilla that Mena was moving to Virginia?
8 I understand that they had a few phone
9 conversations.

10 Q Phone conversations with
11 detectives and people who call into a
12 precinct, are they recorded?

13 A Not to my knowledge.

14 Q Are telephone conversations
15 between people at Rikers Island and the
16 people they call recorded?

17 A Some of them.

18 Q What would trigger a
19 recording?

20 A You would have to speak to
21 somebody at Rikers Island about that.

22 Q What about when someone
23 meets someone in person at Rikers Island,
24 is there a microphone placed somewhere
25 and a recording made?

1 L. GERDES, ESQ.

2 A Not to my knowledge.

3 Q Have you ever been

4 pregnant?

5 MR. FRANCOLLA: Objection.

6 No, you're not answering
7 that question.

8 A I've never been pregnant.

9 Q Have you ever had a
10 Cesarean section?

11 A No, but I had friends who
12 had.

13 Q You testified earlier that
14 you would classify that as surgery; is
15 that correct?

16 A Yes.

17 Q You indicated earlier that
18 that was something serious, but not
19 necessarily. It could have been a number
20 of things that you could have attributed
21 it to, the fact that she was having
22 surgery; is that correct?

23 MR. FRANCOLLA: Objection.

24 A Well, he said that his wife
25 was in labor in one of the other texts.

1 L. GERDES, ESQ.

2 Q At the time when you read
3 that, did you believe that she was having
4 a Cesarean section?

5 A When those two texts are
6 sent within 24 hours of each other, yes.

7 Q At the time that you read
8 it, you believed that she was going to be
9 out for a couple of weeks because she had
10 a Cesarean section; is that correct?

11 A Yes. Also, with this text
12 message, you just can't overlook the
13 timing of it. I mean, this is sent.

Again, when you combine all
of this together and you look at the big
picture, when you have this sent about
seven to eight hours before the victim is
abducted, and after he speaks to
Dickinson on the phone, I mean, knowing
what we know about all of the other
circumstantial evidence in this case --
because that's what my job as a
prosecutor is to do.

24 You don't necessarily look
25 at just one piece by itself and make a

1 L. GERDES, ESQ.

2 decision. You look at all of the pieces
3 of the puzzle, and you put all of those
4 pieces that you have before you and
5 consider it all.

6 You know, while there may
7 be an innocent explanation for this one
8 text; maybe he was moving to Virginia,
9 it's very difficult to say that that's
10 the most reasonable conclusion that you
11 should draw when you look at all of the
12 other evidence and when you look at what
13 we know. When I looked at everything,
14 the one naturally flowing, reasonable,
15 logical conclusion was that he planned
16 this.

17 Q That conclusion was
18 something that you had already formed on
19 October 20, 2011?

20 A Of course not. You never
21 asked me that question, and I never said
22 that.

23 Q You stated earlier that
24 there is an argument to say that on
25 October 20, 2011, you had probable cause

1 L. GERDES, ESQ.

2 to arrest Rafael Soto.

3 Was it your belief for that
4 because you believed that at that
5 particular juncture that there was enough
6 circumstantial evidence to form probable
7 cause, and that Rafael Soto had actually
8 committed the crime?

9 MR. FRANCOLLA: Objection.

10 A I don't know if -- I mean,
11 we didn't make the arrest that day.

12 That's the fact. It was very strong and
13 powerful evidence. I don't know the
14 answer to that. I don't know if it was
15 without a doubt probable cause to arrest
16 that day, but we didn't arrest. So, we
17 don't have to make that decision.

18 Q Your beliefs and the
19 conclusions that you came to on the
20 initial day of the arrest, did that
21 influence your investigation?

22 MR. FRANCOLLA: Objection.

23 A I mean, of course, when you
24 learn something. You don't start at
25 Point A, when you -- or Point Z, when you

1 L. GERDES, ESQ.

2 know everything that happened before. I
3 mean, what you know does drive an
4 investigation. It does point you in
5 different directions. We weren't working
6 blindly.

16 Q Now, I'm going to go back
17 to what was marked as Plaintiff's Exhibit
18 5.

19 A Sure.

20 Q You looked at these
21 earlier. Does it appear that this set of
22 documents contains a lot of documents
23 that look to be financial in nature?

24 A No. I mean, besides the
25 Chase Bank, there's bridge tolls. Do you

1 L. GERDES, ESQ.

2 Q Did Mr. Levitt have any
3 sway in your decision to bring charges
4 against Mr. Dickinson?

5 A Against Mr. Dickinson?

6 Q I'm sorry. Against Mr.
7 Soto. I apologize.

8 A Yes. Before he was
9 arrested, we discussed, you know, what
10 the evidence was against him.

11 Q What did Mr. Levitt tell
12 you after you discussed the evidence with
13 him?

14 A He was in agreement with me
15 that we had probable cause to arrest.

16 Q Did he direct you to have
17 Mr. Soto arrested?

18 A I don't know who -- well, I
19 didn't personally arrest Mr. Soto. I
20 don't know if we were all in the same
21 room; Bonilla, me, and Jeff. I can't
22 remember now, but all three of us were on
23 the same page that we had probable cause.
24 That we had more than probable cause for
25 arrest in this case.

1 L. GERDES, ESQ.

2 Q Was there any one person
3 who made the decision to arrest Mr. Soto?

4 A No. I think it was that
5 everyone was in agreement.

6 Q Everyone was in agreement.

7 Did the three of you together make the
8 decision that Mr. Soto should then be
9 arrested?

10 A I don't know who made the
11 final call. I really don't. No one was
12 wavering, or no one was suggesting that
13 we needed more. All three of us were on
14 the same page when we reviewed all of
15 this evidence that there was probable
16 cause to arrest.

17 Q If the Kings County
18 District Attorney's Office had made that
19 final decision to make the arrest, would
20 they have drafted some sort of document
21 to send to the NYPD to effect the arrest?

22 A No, not to my knowledge.

23 It wasn't done in this case. I mean, I
24 don't think -- I'm not familiar with
25 something like that.

1 L. GERDES, ESQ.

2 Q If you were the person that
3 directed Detective Bonilla to make the
4 arrest, would you have called him on the
5 phone and told him, we have enough
6 probable cause, so please arrest Mr.
7 Soto?

8 MR. FRANCOLLA: Objection.

9 Q Or something along those
10 lines, obviously.

11 A Like I said, I can't
12 speculate. I don't know who -- I don't
13 know if we were all in the same room.
14 You know, I know that at some point, you
15 know, Bonilla was at our office at
16 different points in time. I know that I
17 was in Jeff's office.

18 You know, I don't know if
19 somebody communicated, you know, yes, go
20 ahead and make the arrest to Bonilla via
21 phone. Whether or not that was an
22 in-person conversation, I don't know the
23 answer to that.

24 Q Have you ever ordered the
25 NYPD to arrest someone?

1 L. GERDES, ESQ.

2 District Attorney's Office?

3 MR. FRANCOLLA: Objection.

4 A I don't know what drive the
5 screening database is considered to be a
6 part of, because any ADA can sign onto a
7 screening database. The Complaint
8 Drafting database, I don't know what
9 drive that's on.

10 Q Is it fair to say that you
11 don't know if there is?

12 A I guess so.

13 Q Before Mr. Soto was
14 arrested, did Dickinson tell you anything
15 that led you to believe that Rafael Soto
16 had any direct communications with Pablo
17 Dickinson prior to the October 20th
18 incident?

19 A Did Dickinson ever tell us
20 prior to Soto's arrest that he had direct
21 contact with Soto? No.

22 Q The second license plate
23 that you pulled that was on the FedEx
24 van, Soto's van, do you know whose
25 license plate that was?

1 L. GERDES, ESQ.

2 A I think it was registered
3 to, like, a van or a truck in Minnesota.

4 Q Do you know to this day --
5 A I don't think it was ever
6 reported stolen, to my knowledge. I
7 don't think, if memory serves me
8 correctly.

9 Q Do you know to this day who
10 put the plate on the back of the van?

11 A Pablo Dickinson said that
12 Mena did that.

13 Q Do you to this day know
14 where Mena got that plate from?

15 A No.

16 Q Do you know to this day who
17 directed Mena to put the plate on the
18 back of the van?

19 A Well, I know it wasn't
20 Dickinson.

21 Q I'm asking you: Do you
22 know who it was?

23 A Well, I'm telling you,
24 there's one person I can exclude. It
25 wasn't Dickinson.

1 L. GERDES, ESQ.

2 Q Other than that, you don't
3 know who it was?

4 A No, besides Dickinson and
5 Soto. They would be the only two people
6 who ever were in the van coming back.

7 Q I believe you said that you
8 don't have Bonilla's case file anymore;
9 is that correct?

10 A Correct.

11 MR. MOUTON: I am going to
12 keep this deposition open, or
13 deem it to remain open,
14 subject to receiving the
15 various documents that, I
16 believe, are missing from the
17 discovery here today, and, as
18 well, because of counsel's
19 direction to his client not to
20 answer questions related to
21 financial information.

22 MR. FRANCOLLA: For the
23 record, I see absolutely no
24 basis whatsoever to ever
25 reopen this deposition. We'll